

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. *Applicant/Contact name and address:* Brian & Peggy Luoma
HC 50 Box 4480
Luther, MT 59068
2. *Type of action:* Application for Beneficial Water Use No. 43C-30017272
3. *Water source name:* Unnamed Tributary of East Fork Butcher Creek
4. *Location affected by project:* SE SE SE Section 34, T6S, R18E, Carbon County
5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits:*
This is an application for a 2.4 AF in-stream pond to be used as a fishery. The pond will use a flow of 40 GPM and a maximum flow through volume of 64.5 AF per year. DNRC will issue a provisional water use permit if all criteria for issuance under MCA 85-2-311 are met.
6. *Agencies consulted during preparation of the Environmental Assessment:*
(include agencies with overlapping jurisdiction)
Montana Natural Heritage Program
Montana Historic Preservation Office
Montana Department of Fish Wildlife & Parks (MFWP)
Montana Department of Environmental Quality (MDEQ)

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

Determination: This Unnamed Tributary of East Butcher Creek is not on the MFWP list of chronically or periodically dewatered streams.

This creek is fed by a spring that has been measured at approximately 50 gallons per minute and the flow appears to be fairly constant at that rate. The proposed impoundment will be near the spring of this creek and allow the water to flow through and continue down the drainage. There will be impacts on the source from this proposed use, but those impacts are not expected to be significant.

Water quality - *Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

Determination: East Fork Butcher Creek is not on the MDEQ list of water quality impaired or threatened streams. This proposed construction should have no significant impact on water quality issues in the area.

Groundwater - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: This proposed use of water should have no significant impact on groundwater quality or quantity in the area.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: The impoundment will be constructed with an earthen dam placed in the stream channel with a 30 inch overflow standpipe connected to a 15 inch drain pipe that returns the water to the natural stream bed and an emergency over flow built into the dam. The bottom of the pond will be sealed with the naturally available clay in the area. The applicant writes that “the construction will be done by a reputable construction firm with considerable experience with earth dam construction”. There will be considerable disturbance to the stream channel during construction. It is expected that the applicant will comply with the Conservation District 310 permitting process before construction starts.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - *Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern,” or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or “species of special concern.”*

Determination:

Wetlands - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

Determination: This pond was constructed within the streambed. There was a continuous flow of water through the area and it appears there were many wet areas where the stream ran through the area. The area does not appear to be a wetland area, so there should be no significant impacts to wetlands from this proposed use.

Ponds - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

Determination: This proposed pond should enhance the wildlife and waterfowl resources in the area. There could be some impacts on the fisheries from this proposed use, but the impact is not expected to be significant.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

Determination: This proposed use should not degrade soil quality or cause saline seep problems in the area. The pond could cause some water to seep in areas where there was no previous seepage, but it is not expected that saline seep will occur.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.

Determination: There will be much soil disturbance during construction of this proposed project and there will be a possibility of some noxious weeds spread and establishment. It is expected that the landowner will control the spread of noxious weeds on his property.

AIR QUALITY - Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.

Determination: There should be no deterioration of air quality or adverse effects on vegetation due to increased air pollutants from this proposed project.

HISTORICAL AND ARCHEOLOGICAL SITES - Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project.

Determination: The Montana Historic Preservation Office did not identify any archeological or historic sites of record in the proposed project area. This proposed use of water is not expected to have any significant impact on any historical or archeological sites in the area.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - Assess any other impacts on environmental resources of land, water and energy not already addressed.

Determination: There should be no significant impacts on other environmental resources of land, energy, and water from this proposed use.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.

Determination: This proposed use is not inconsistent with locally excepted environmental practices and goals for Carbon County.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.

Determination: There should be no significant impacts on recreational or wilderness activities from this proposed use.

HUMAN HEALTH - Assess whether the proposed project impacts on human health.

Determination: There should be no significant impact on human health from this proposed use.

PRIVATE PROPERTY - Assess whether there are any government regulatory impacts on private property rights.

Yes__ No X If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination: No significant impact.

OTHER HUMAN ENVIRONMENTAL ISSUES - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

Impacts on:

(a) Cultural uniqueness and diversity? No significant impact

(b) Local and state tax base and tax revenues? No significant impact

- (c) Existing land uses? This land was previously pasture and forest land. These proposed uses will change the way some of this land is used, but the impact in the area is not expected to be significant.
- (d) Quantity and distribution of employment? No significant impact
- (e) Distribution and density of population and housing? No significant impact
- (f) Demands for government services? No significant impact
- (g) Industrial and commercial activity? No significant impact
- (h) Utilities? No significant impact
- (i) Transportation? No significant impact
- (j) Safety? No significant impact
- (k) Other appropriate social and economic circumstances? No significant impact

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts: The use of this water could impact water users downstream of the dam by causing less water to be available for future water appropriations.

Cumulative Impacts: As more development takes place in this area, there could be more demands for water for domestic, recreation, commercial, irrigation and stock use. This could cause impacts to other water users within the East Fork of Butcher Creek, the Rosebud Creek and Stillwater drainages.

- 3. *Describe any mitigation/stipulation measures:*** The applicant is aware that they would be required to cease using water if the use of the water is adversely impacting the rights of downstream users.
- 4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:***

The “no action” alternative would mean that the Luomas could not have a fish pond.

PART III. Conclusion

- 1. *Preferred Alternative:*** The preferred alternative would be to allow the use of the water from East Fork Butcher Creek with the condition that the water rights of senior water users would not be adversely impacted.
- 2. *Comments and Responses:*** None to report

3. **Finding:**

Yes___ No_**X**___ Based on the significance criteria evaluated in this EA, is an EIS required?

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: No significant environmental impacts were identified. No EIS is required.

Name of person(s) responsible for preparation of EA:

Name: Tim Lewis

Title: Water Resources Specialist

Date: June 13, 2006